

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD YOUNG,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 03-551
)	
JEFFREY BEARD, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

_____Plaintiff has filed a motion demanding the entry of a "final judgment order" in this case so that he may proceed with an appeal. Doc. 162. The federal appellate courts have jurisdiction over all final decisions of the federal district courts. 28 U.S.C. § 1291. A final decision or order has been defined as one that "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 373 (1981) (quotation and citations omitted).

In the instant case, a Report and Recommendation ("R&R") has been filed with the Court recommending dismissal of plaintiff's claims against two of the defendants, *i.e.*, Drs. Kern and Kolli. Objections to the R&R may be filed on or before June 26, 2006, which time obviously has not yet expired. Accordingly, it would be improper for the district court to act at this juncture. Once the time has expired for the filing of objections, the district court must review the R&R, any objections thereto and the record

as well and then decide whether to dismiss the claims against Drs. Kern and Kolli. Even if the district court ultimately were to agree with the R&R, notwithstanding any objections that may be filed, and dismiss plaintiff's claims against Drs. Kern and Kolli, there remains in the case plaintiff's First Amendment claim against the Commonwealth Defendants regarding the alleged confiscation of his mail. Accordingly, until this last remaining claim has been decided the instant litigation will not have ended on the merits and entry of a "final judgment order" would be improper.

For the above stated reasons, IT IS HEREBY ORDERED that plaintiff's motion (doc. 162) is DENIED.

So ORDERED this 14th day of June, 2006.

/s/ Amy Reynolds Hay
AMY REYNOLDS HAY
United States Magistrate Judge

cc: Richard Young
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